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असाधारण

EXTRAORDINARY

भाग II—खण्ड 2

PART II—Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on 24th October, 2008:—

I

BILL NO. LIII OF 2008

A Bill to establish and enforce standards of weights and measures, regulate trade and commerce in weights, measures and other goods which are sold or distributed by weight, measure or number and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Legal Metrology Act, 2008.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and different dates may be appointed for different provisions of this Act.

2. In this Act, unless the context otherwise requires,—

(a) "Controller" means the Controller of Legal Metrology appointed under section 14;

(b) "dealer", in relation to any weight or measure, means a person who, carries on, directly or otherwise, the business of buying, selling, supplying or distributing any such weight or measure, whether for cash or for deferred payment or for commission, remuneration or other valuable consideration, and includes a commission agent, an

Short title, extent and commencement.

Definitions.

importer, a manufacturer, who sells, supplies, distributes or otherwise delivers any weight or measure manufactured by him to any person other than a dealer;

(c) "Director" means the Director of Legal Metrology appointed under section 13;

(d) "export" with its grammatical variations and cognate expressions, means taking out of India to a place outside India;

(e) "import" with its grammatical variations and cognate expressions, means bringing into India from a place outside India;

(f) "label" means any written, marked, stamped, printed or graphic matter affixed to, or appearing upon any pre-packaged commodity;

(g) "Legal Metrology" means that part of metrology which treats units of weight and measurement, methods of weighing and measurement and weighing and measuring instruments, in relation to the mandatory technical and legal requirements which have the object of ensuring public guarantee from the point of view of security and accuracy of the weightings and measurements;

(h) "legal metrology officer" means Additional Director, Additional Controller, Joint Director, Joint Controller, Deputy Director, Deputy Controller, Assistant Director, Assistant Controller and Inspector appointed under sections 13 and 14;

(i) "manufacturer" in relation to any weight or measure, means a person who —

(i) manufactures weight or measure,

(ii) manufactures one or more parts, and acquires other parts, of such weight or measure and, after assembling those parts, claims the end product to be a weight or measure manufactured by himself or itself, as the case may be,

(iii) does not manufacture any part of such weight or measure but assembles parts thereof manufactured by others and claims the end product to be a weight or measure manufactured by himself or itself, as the case may be,

(iv) puts, or causes to be put, his own mark on any complete weight or measure made or manufactured by any other person and claims such product to be a weight or measure made or manufactured by himself or itself, as the case may be;

(j) "notification" means a notification published in the Official Gazette;

(k) "protection" means the utilisation of reading obtained from any weight or measure, for the purpose of determining any step which is required to be taken to safeguard the well-being of any human being or animal, or to protect any commodity, vegetation or thing, whether individually or collectively;

(l) "pre-packaged commodity" means a commodity which without the purchaser being present is placed in a package of whatever nature, whether sealed or not, so that the product contained therein has a pre-determined quantity;

(m) "person" includes,—

(i) a Hindu undivided family,

(ii) every department or office,

(iii) every organisation established or constituted by Government,

(iv) every local authority within the territory of India,

(v) a company, firm and association of individuals,

(vi) trust constituted under an Act,

21 of 1860.

(vii) every co-operative society, constituted under an Act,

(viii) every other society registered under the Societies Registration Act, 1860;

(n) "premises" includes—

(i) a place where any business, industry, production or transaction is carried on by a person, whether by himself or through an agent, by whatever name called, including the person who carries on the business in such premises,

(ii) a warehouse, godown or other place where any weight or measure or other goods are stored or exhibited,

(iii) a place where any books of account or other documents pertaining to any trade or transaction are kept,

(iv) a dwelling house, if any part thereof is used for the purpose of carrying on any business, industry, production or trade,

(v) a vehicle or vessel or any other mobile device, with the help of which any transaction or business is carried on;

(o) "prescribed" means prescribed by rules made under this Act;

(p) "repairer" means a person who repairs a weight or measure and includes a person who adjusts, cleans, lubricates or paints any weight or measure or renders any other service to such weight or measure to ensure that such weight or measure conforms to the standards established by or under this Act;

(q) "State Government", in relation to a Union territory, means the Administrator thereof;

(r) "sale", with its grammatical variations and cognate expressions, means transfer of property in any weight, measure or other goods by one person to another for cash or for deferred payment or for any other valuable consideration and includes a transfer of any weight, measure or other goods on the hire-purchase system or any other system of payment by instalments, but does not include a mortgage or hypothecation of, or a charge or pledge on, such weight, measure or other goods;

(s) "seal" means a device or process by which a stamp is made, and includes any wire or other accessory which is used for ensuring the integrity of any stamp;

(t) "stamp" means a mark, made by impressing, casting, engraving, etching, branding, affixing pre-stressed paper seal or any other process in relation to, any weight or measure with a view to—

(i) certifying that such weight or measure conforms to the standard specified by or under this Act, or

(ii) indicating that any mark which was previously made thereon certifying that such weight or measure conforms to the standards specified by or under this Act, has been obliterated;

(u) "transaction" means,—

(i) any contract, whether for sale, purchase, exchange or any other purpose, or

(ii) any assessment of royalty, toll, duty or other dues, or

(iii) the assessment of any work done, wages due or services rendered;

(v) "verification", with its grammatical variations and cognate expressions, includes, in relation to any weight or measure, the process of comparing, checking, testing or adjusting such weight or measure with a view to ensuring that such weight or measure conforms to the standards established by or under this Act and also includes re-verification and calibration;

(w) "weight or measure" means a weight or measure specified by or under this Act and includes a weighing or measuring instrument.

Provisions of this Act to override provisions of any other law.

3. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument having effect by virtue of any enactment other than this Act.

CHAPTER II

STANDARD WEIGHTS AND MEASURES

Units of weights and measures to be based on metric system.

4. Every unit of weight or measure shall be in accordance with the metric system based on the international system of units.

Base unit of weights and measures.

5. (1) The base unit of—

- (i) length shall be the metre;
- (ii) mass shall be the kilogram;
- (iii) time shall be the second;
- (iv) electric current shall be the ampere;
- (v) thermodynamic temperature shall be the kelvin;
- (vi) luminous intensity shall be the candela; and
- (vii) amount of substance shall be the mole.

(2) The specifications of the base units mentioned in sub-section (1), supplementary units, derived units and other units shall be such as may be prescribed.

Base unit of numeration.

6. (1) The base unit of numeration shall be the unit of the international form of Indian numerals.

(2) Every numeration shall be made in accordance with the decimal system.

(3) The decimal multiples and sub-multiples of the numerals shall be of such denominations and be written in such manner as may be prescribed.

Standard units of weights and measures.

7. (1) The base units of weights and measures specified in section 5 shall be the standard units of weights and measures.

(2) The base unit of numeration specified in section 6 shall be the standard unit of numeration.

(3) For the purpose of deriving the value of base, supplementary, derived and other units mentioned in section 5, the Central Government shall prepare or cause to be prepared objects or equipments in such manner as may be prescribed.

(4) The physical characteristics, configuration, constructional details, materials, equipments, performance, tolerances, period of re-verification, methods or procedures of tests shall be such as may be prescribed.

Standard weight, measure or numeral.

8. (1) Any weight or measure which conforms to the standard unit of such weight or measure and also conforms to such of the provisions of section 7 as are applicable to it shall be the standard weight or measure.

(2) Any numeral which conforms to the provisions of section 6 shall be the standard numeral.

(3) No weight, measure or numeral, other than the standard weight, measure or numeral, shall be used as a standard weight, measure or numeral.

(4) No weight or measure, shall be manufactured or imported unless it conforms to the standards of weight or measure specified under section 8:

Provided that provisions of this section shall not apply for manufacture done exclusively for export or for the purpose of any scientific investigation or research.

9. (1) The reference standards, secondary standards and working standards of weights and measures shall be such as may be prescribed.

Reference,
secondary and
working
standard.

(2) Every reference standard, secondary standard and working standard shall be verified and stamped in such manner and after payment of such fee as may be prescribed.

(3) Every reference standard, secondary standard and working standard which is not verified and stamped in accordance with the provisions of sub-section (2) shall not be deemed to be a valid standard.

10. Any transaction, dealing or contract in respect of any goods, class of goods or undertakings shall be made by such weight, measure or number as may be prescribed.

Use of weight
or measure for
particular pur-
poses.

11. (1) No person shall, in relation to any goods, things or service,—

(a) quote, or make announcement of, whether by word of mouth or otherwise, any price or charge, or

(b) issue or exhibit any price list, invoice, cash memo or other document, or

(c) prepare or publish any advertisement, poster or other document, or

(d) indicate the net quantity of a pre-packaged commodity, or

(e) express in relation to any transaction or protection, any quantity or dimension,

otherwise than in accordance with the standard unit of weight, measure or numeration.

Prohibition of
quotation, etc.,
otherwise than
in terms of
standard units
of weight,
measure or
numeration.

(2) The provisions of sub-section (1) shall not be applicable for export of any goods, things or service.

12. Any custom, usage, practice or method of whatever nature which permits a person to demand, receive or cause to be demanded or received, any quantity of article, thing or service in excess of or less than, the quantity specified by weight, measure or number in the contract or other agreement in relation to the said article, thing or service, shall be void.

Any custom,
usage, etc.,
contrary to
standard
weight,
measure or
numeration to
be void.

CHAPTER III

APPOINTMENT AND POWERS OF DIRECTOR, CONTROLLER AND LEGAL METROLOGY OFFICERS

13. (1) The Central Government may, by notification, appoint a Director of legal metrology, Additional Director, Joint Director, Deputy Director, Assistant Director and other employees for exercising the powers and discharging the duties conferred or imposed on them by or under this Act in relation to inter-State trade and Commerce.

Appointment
of Director,
legal
metrology
officer and
other
employees.

(2) The qualifications of the Director and legal metrology officers appointed under sub-section (1) shall be such as may be prescribed.

(3) The Director and every legal metrology officer, appointed under sub-section (1), shall exercise such powers and discharge such functions in respect of such local limits as the Central Government may, by notification, specify.

(4) Every legal metrology officer appointed under sub-section (1) shall exercise powers and discharge duties under the general superintendence, direction and control of the Director.

(5) The Director, the Controller and every legal metrology officer authorised to perform any duty by or under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

(6) No suit, prosecution or other legal proceeding shall lie against the Director and legal metrology officer authorised to perform any duty by or under this Act in respect of anything which is in good faith done or intended to be done under this Act or any rule or order made thereunder.

(7) The Central Government may, with the consent of the State Government and subject to such conditions, limitations and restrictions as it may specify in this behalf, delegate such of the powers of the Director under this Act as it may think fit to the Controller of legal metrology in the State, and such Controller may, if he is of opinion that it is necessary or expedient in the public interest so to do, delegate such of the powers delegated to him as he may think fit to any legal metrology officer and where any such delegation of powers is made by such Controller, the person to whom such powers are delegated shall exercise those powers in the same manner and with the same effect as if they had been conferred on him directly by this Act and not by way of delegation.

(8) Where any delegation of powers is made under sub-section (6), the powers so delegated shall be exercised under the general superintendence, direction and guidance of the Director.

Appointment
of Controller,
legal
metrology
officers and
other
employees.

14. (1) The State Government may, by notification, appoint a Controller of legal metrology, Additional Controller, Joint Controller, Deputy Controller, Assistant Controller, Inspector and other employees for the State for exercising the powers and discharging the duties conferred or imposed on them by or under this Act in relation to intra State trade and commerce.

(2) The qualifications of the Controller and legal metrology officers appointed under sub-section (1) shall be such as may be prescribed.

(3) The Controller and every legal metrology officer, appointed under sub-section (1), shall exercise such powers and discharge such functions in respect of such local limits as the State Government may, by notification, specify.

(4) Every legal metrology officer appointed under sub-section (1) shall exercise and discharge the duties under the general superintendence, direction and control of the Controller.

Power of
inspection,
seizure, etc.

15. (1) The Director, Controller or any legal metrology officer may, if he has any reason to believe, whether from any information given to him by any person and taken down in writing or from personal knowledge or otherwise, that any weight or measure or other goods in relation to which any trade and commerce has taken place or is intended to take place and in respect of which an offence punishable under this Act appears to have been, or is likely to be, committed are either kept or concealed in any premises or are in the course of transportation,—

(a) enter at any reasonable time into any such premises and search for and inspect any weight, measure or other goods in relation to which trade and commerce has taken place, or is intended to take place and any record, register or other document relating thereto;

(b) seize any weight, measure or other goods and any record, register or other document or article which he has reason to believe may furnish evidence indicating that an offence punishable under this Act has been, or is likely to be, committed in the course of, or in relation to, any trade and commerce.

(2) The Director, Controller or any legal metrology officer may also require the production of every document or other record relating to the weight or measure referred to in sub-section (1) and the person having the custody of such weight or measure shall comply with such requisition.

(3) Where any goods seized under sub-section (1) are subject to speedy or natural decay, the Director, Controller or legal metrology officer may dispose of such goods in such manner as may be prescribed.

2 of 1974.

(4) Every search or seizure made under this section shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973, relating to searches and seizures.

16. (1) Every non-standard or unverified weight or measure, and every package made in contravention of section 18, used in the course of, or in relation to, any trade and commerce and seized under section 15, shall be liable to be forfeited to the State Government:

Forfeiture.

Provided that such unverified weight or measure shall not be forfeited to the State Government if the person from whom such weight or measure was seized gets the same verified and stamped within such time as may be prescribed.

(2) Every weight, measure or other goods seized under section 15 but not forfeited under sub-section (1), shall be disposed of by such authority and in such manner as may be prescribed.

17. (1) Every manufacturer, repairer or dealer of weight or measure shall maintain such records and registers as may be prescribed.

Manufacturers, etc., to maintain records and registers.

(2) The records and registers maintained under sub-section (1) shall be produced at the time of inspection to the persons authorised for the said purpose under sub-section (1) of section 15.

18. (1) No person shall manufacture, pack, sell, import, distribute, deliver, offer, expose or possess for sale any pre-packaged commodity unless such package is in such standard quantities or number and bears thereon such declarations and particulars in such manner as may be prescribed.

Declarations on pre-packaged commodities.

(2) Any advertisement mentioning the retail sale price of a pre-packaged commodity shall contain a declaration as to the net quantity or number of the commodity contained in the package in such form and manner as may be prescribed.

19. No person shall import any weight or measure unless he is registered with the Director in such manner and on payment of such fees, as may be prescribed.

Registration for importer of weight or measure.

20. No weight or measure, whether singly or as a part or component of any machine shall be imported unless it conforms to the standards of weight or measure established by or under this Act.

Non-standard weights and measures not to be imported.

21. (1) For imparting training in Legal Metrology and other allied branches of knowledge the "Indian Institute of Legal Metrology" (hereinafter referred to as the "Institute") established under the provisions of the Standards of Weights and Measures Act, 1976, shall be deemed to have been established under the corresponding provisions of this Act.

Training in Legal Metrology.

60 of 1976.

(2) The management and control of the Institute, the teaching staff and other employees, the courses and curricula for training thereat, the qualifications, which a person shall possess in order to be eligible for admission thereto shall be such as may be prescribed.

22. Every person, before manufacturing or importing any weight or measure shall seek the approval of model of such weight or measure in such manner, on payment of such fee and from such authority as may be prescribed:

Approval of model.

Provided that such approval of model may not be required in respect of any cast iron, brass, bullion, or carat weight or any beam scale, length measures (not being measuring tapes) which are ordinarily used in retail trade for measuring textiles or timber, capacity measures, not exceeding twenty litre in capacity, which are ordinarily used in retail trade for measuring kerosene, milk or potable liquors:

Provided further that the prescribed authority may, if he is satisfied that the model of any weight or measure which has been approved in a country outside India conforms to the standards established by or under this Act, approve such model without any test or after such test as he may deem fit.

Prohibition
on
manufacture,
repair or sale
of weight or
measure
without
licence.

23. (1) No person shall manufacture, repair or sell, or offer, expose or possess for repair or sale, any weight or measure unless he holds a licence issued by the Controller under sub-section (2).

(2) For the purpose of sub-section (1), the Controller shall issue a licence in such form and manner, on such conditions, for such period and such area of jurisdiction and on payment of such fee as may be prescribed.

CHAPTER IV

VERIFICATION AND STAMPING OF WEIGHT OR MEASURE

Verification
and stamping
of weight or
measure.

24. (1) Every person having any weight or measure in his possession, custody or control in circumstances indicating that such weight or measure is being, or is intended or is likely to be, used by him in any transaction or for protection, shall, before putting such weight or measure into such use, have such weight or measure verified at such place and during such hours as the Controller may, by general or special order, specify in this behalf, on payment of such fees as may be prescribed.

(2) The Central Government may prescribe the kinds of weights and measures for which the verification is to be done through the Government approved Test Centre.

(3) The Government approved Test Centre shall be notified by the Central Government or the State Government, as the case may be, in such manner, on such terms and conditions and on payment of such fee as may be prescribed.

(4) The Government approved Test Centre shall collect such fee on such terms and conditions for the verification of weights and measures specified under sub-section (2) as may be prescribed.

CHAPTER V

OFFENCES AND PENALTIES

Penalty for use
of non-
standard weight
or measure.

25. Whoever uses or keeps for use any weight or measure or makes use of any numeration otherwise than in accordance with the standards of weight or measure or the standard of numeration, as the case may be, specified by or under this Act, shall be punished with fine which may extend to twenty-five thousand rupees and for the second or subsequent offence, with imprisonment for a term which may extend to six months and also with fine.

Penalty for
alteration of
weight and
measure.

26. Whoever tampers with, or alters in any way, any reference standard, secondary standard or working standard or increases or decreases or alters any weight or measure with a view to deceiving any person or knowing or having reason to believe that any person is likely to be deceived thereby, except where such alteration is made for the correction of any error noticed therein on verification, shall be punished with fine which may extend to fifty thousand rupees and for the second and subsequent offence with imprisonment for a term which shall not be less than six months but which may extend to one year or with fine or with both.

Penalty for
manufacture or
sale of non-
standard weight
or measure.

27. Every person who manufactures or causes to be manufactured or sells or offers, exposes or possesses for sale, any weight or measure which,—

(a) does not conform to the standards of weight or measure specified by or under this Act; or

(b) which bears thereon any inscription of weight, measure or number which does not conform to the standards of weight, measure or numeration specified by or under this Act,

except where he is permitted to do so under this Act, shall be punished with a fine which may extend to twenty thousand rupees and for the second or subsequent offence with imprisonment for a term which may extend to three years or with fine or with both.

28. Whoever makes any transaction, deal or contract in contravention of the standards of weights and measures specified under section 10 shall be punished with fine which may extend to ten thousand rupees and for the second or subsequent offence, with imprisonment for a term which may extend to one year, or with fine, or with both.

Penalty for making any transaction, deal or contract in contravention of the prescribed standards.

29. Whoever violates section 11 shall be punished with fine which may extend to ten thousand rupees and, for the second or subsequent offence, with imprisonment for a term which may extend to one year, or with fine, or with both.

Penalty for quoting or publishing, etc., of non-standard units.

30. Whoever—

(a) in selling any article or thing by weight, measure or number, delivers or causes to be delivered to the purchaser any quantity or number of that article or thing less than the quantity or number contracted for or paid for; or

Penalty for transactions in contravention of standard weight or measure.

(b) in rendering any service by weight, measure or number, renders that service less than the service contracted for or paid for; or

(c) in buying any article or thing by weight, measure or number, fraudulently receives, or causes to be received any quantity or number of that article or thing in excess of the quantity or number contracted for or paid for; or

(d) in obtaining any service by weight, measure or number, obtains that service in excess of the service contracted for or paid for,

shall be punished with fine which may extend to ten thousand rupees, and, for the second or subsequent offence, with imprisonment for a term which may extend to one year, or with fine, or with both.

31. Whoever, being required by or under this Act or the rules made thereunder to maintain any record or register, or being required by the Director or the Controller or any legal metrology officer to produce before him for inspection any weight or measure or any document, register or other record relating thereto, omits or fails without any reasonable excuse, so to do, shall be punished with fine which may extend to five thousand rupees and for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

Penalty for non-production of documents, etc.

32. Whoever fails or omits to submit model of any weight or measure for approval, shall be punished with fine which may extend to twenty thousand rupees and for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

Penalty for failure to get model approved.

33. Whoever, sells, distributes, delivers or otherwise transfers or uses any unverified weight or measure shall be punished with fine which shall not be less than two thousand rupees but which may extend to ten thousand rupees and, for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

Penalty for use of unverified weight or measure.

34. Whoever sells, or causes to be sold, delivers, or causes to be delivered, any commodity, article or thing by any means other than the standard weight or measure or number, shall be punished with fine which shall not be less than two thousand rupees but which may extend to five thousand rupees and, for the second or subsequent offence, with imprisonment for a term which shall not be less than three months but which may extend to one year, or with fine, or with both.

Penalty for sale or delivery of commodities, etc., by non-standard weight or measure.

Penalty for rendering services by non-standard weight, measure or number.

Penalty for selling, etc., of non-standard packages.

Penalty for contravention by Government approved Test Centre.

Penalty for non-registration by importer of weight or measure.

Penalty for import of non-standard weight or measure.

Penalty for obstructing Director, Controller or legal metrology officer.

Penalty for giving false information or false return.

35. Whoever renders or causes to be rendered, any service through means other than the weight or measure or numeration or in terms of any weight, measure or number other than the standard weight or measure, shall be punished with fine which shall not be less than two thousand rupees but which may extend to five thousand rupees and for the second or subsequent offence, with imprisonment for a term which shall not be less than three months but which may extend to one year, or with fine, or with both.

36. (1) Whoever manufactures, packs, imports-sells, distributes, delivers or otherwise transfers, offers, exposes or possesses for sale, or causes to be sold, distributed, delivered or otherwise transferred, offered, exposed for sale any pre-packaged commodity which does not conform to the declarations on the package as provided in this Act, shall be punished with fine which may extend to twenty-five thousand rupees, for the second offence, with fine which may extend to fifty thousand rupees and for the subsequent offence, with fine which shall not be less than fifty thousand rupees but which may extend to one lakh rupees or with imprisonment for a term which may extend to one year or with both.

(2) Whoever manufactures or packs or imports or causes to be manufactured or packed or imported, any pre-packaged commodity, with error in net quantity as may be prescribed shall be punished with fine which shall not be less than ten thousand rupees but which may extend to fifty thousand rupees and for the second and subsequent offence, with fine which may extend to one lakh rupees or with imprisonment for a term which may extend to one year or with both.

37. Where any Government approved Test Centre contravenes any of the provisions of this Act or the rules made thereunder, or the conditions of the licence, it shall be punished with fine which may extend to one lakh rupees.

38. Whoever imports any weight or measure without being registered under this Act shall be punished with fine which may extend to twenty-five thousand rupees and for the second or subsequent offence, with imprisonment for a term which may extend to six months, or with fine, or with both.

39. Whoever imports any non-standard weight or measure shall be punished with fine, which may extend to fifty thousand rupees and for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

40. Whoever obstructs the Director, the Controller or any legal metrology officer with intent to prevent or deter the Director or the Controller or any legal metrology officer from exercising his powers or discharging his functions, or in consequence of anything done or attempted to be done by the Director or the Controller or any legal metrology officer in the lawful exercise of his powers or discharge of his functions as such, or whoever obstructs the entry of the Director or the Controller or any legal metrology officer into any premises for inspection and verification of any weight or measure or any document or record relating thereto or the net contents of any packaged commodity or for any other purpose shall be punished with imprisonment for a term which may extend to two years and for the second or subsequent offence, with imprisonment for a term which may extend to five years.

41. (1) Whoever gives any information to the Director, the Controller or any legal metrology officer, which he may require or ask for in the course of his duty, and which such person either knows or has reason to believe to be false, shall be punished with fine which may extend to ten thousand rupees and for the second or subsequent offence with imprisonment for a term which may extend to six months and also with fine.

(2) Whoever, being required by or under this Act so to do, submits a return or maintains any record or register which is false in material particulars, shall be punished with fine which may extend to ten thousand rupees and for the second or subsequent offence, with imprisonment for a term which may extend to one year and also with fine.

42. The Director, the Controller or any legal metrology officer, exercising powers under this Act or any rule made thereunder, who knows that there are no reasonable grounds for so doing, and yet—

Vexatious search.

(a) searches, or causes to be searched, any house, conveyance or place; or

(b) searches any person; or

(c) seizes any weight, measure or other movable property;

shall, for every such offence, be punished with imprisonment for a term which may extend to one year, or with fine which may extend to ten thousand rupees or with both.

43. Where the Controller or any legal metrology officer exercising powers under this Act or any rule made thereunder, wilfully verifies or stamps any weight or measure, in contravention of the provisions of this Act or of any rule made thereunder, he shall, for every such offence, be punished with imprisonment for a term which may extend to one year, or with fine which may extend to ten thousand rupees or with both.

Penalty for verification in contravention of Act and rules.

44. (1) Whoever—

Penalty for counterfeiting of seals, etc.

(i) counterfeits any seal specified by or under this Act or the rules made thereunder, or

(ii) sells or otherwise disposes of any counterfeit seal, or

(iii) possesses any counterfeit seal, or

(iv) counterfeits or removes or tampers with any stamp, specified by or under this Act or rules made thereunder, or

(v) affixes the stamp so removed on, or inserts the same into, any other weight or measure,

shall be punished with imprisonment for a term which shall not be less than six months but which may extend to one year and for the second or subsequent offence, with imprisonment for a term which shall not be less than six months but which may extend to five years.

Explanation.—In this sub-section, “counterfeit” shall have the meaning assigned to it in section 28 of the Indian Penal Code.

45 of 1860.

(2) Whoever obtains, by unlawful means, any seal specified by or under this Act or the rules made thereunder and uses, or causes to be used, any such seal for making any stamp on any weight or measure with a view to representing that the stamp made by such seal is authorised by or under this Act or the rules made thereunder shall be punished with imprisonment for a term which shall not be less than six months but which may extend to one year and for the second or subsequent offence, with imprisonment for a term which shall not be less than six months but which may extend to five years.

(3) Whoever, being in lawful possession of a seal specified by or under this Act or the rules made thereunder, uses, or causes to be used, such seal without any lawful authority for such use, shall be punished with imprisonment for a term which shall not be less than six months but which may extend to one year and for the second or subsequent offence, with imprisonment for a term which shall not be less than six months but which may extend to five years.

(4) Whoever sells or offers or exposes for sale or otherwise disposes of any weight or measure which, he knows or has reason to believe, bears thereon a counterfeit stamp, shall be punished with imprisonment for a term which shall not be less than six months but which may extend to one year and for the second or subsequent offence, with imprisonment for a term which shall not be less than six months but which may extend to five years.

45. Whoever, being required to obtain a licence under this Act or the rules made thereunder, manufactures, without being in possession of a valid licence, any weight or measure, shall be punished with fine which may extend to twenty thousand rupees and for the second or subsequent offence, with imprisonment for a term which may extend to one year, or with fine, or with both.

Penalty for manufacture of weight and measure without licence.

Penalty for repair, sale, etc., of weight and measure without licence.

Penalty for tampering with licence.

Compounding of offences.

Offences by companies and power of court to publish name, place of business, etc., for companies convicted.

46. Whoever, being required to obtain a licence under this Act or the rules made thereunder repairs or sells or offers, exposes or possesses for repair or sale, any weight or measure, without being in possession of a valid licence, shall be punished with fine which may extend to five thousand rupees and for the second or subsequent offence, with imprisonment for a term which may extend to one year, or with fine, or with both.

47. Whoever alters or otherwise tampers, with any licence issued or renewed under this Act or rules made thereunder, otherwise than in accordance with any authorisation made by the Controller in this behalf, shall be punished with fine which may extend to twenty thousand rupees, or with imprisonment for a term which may extend to one year or with both.

48. (1) Any offence punishable under section 25, sections 27 to 39, sections 45 to 47, or any rule made under sub-section (3) of section 52 may, either before or after the institution of the prosecution, be compounded, on payment for credit to the Government of such sum as may be prescribed.

(2) The Director or legal metrology officer as may be specially authorised by him in this behalf, may compound offences punishable under section 25, sections 27 to 39, or any rule made under sub-section (3) of section 52.

(3) The Controller or legal metrology officer specially authorised by him, may compound offences punishable under section 25, sections 27 to 31, sections 33 to 37, sections 45 to 47, and any rule made under sub-section (3) of section 52:

Provided that such sum shall not, in any case, exceed the maximum amount of the fine, which may be imposed under this Act for the offence so compounded.

(4) Nothing in sub-section (1) shall apply to person who commits the same or similar offence, within a period of three years from the date on which the first offence, committed by him, was compounded.

Explanation.—For the purposes of this sub-section, any second or subsequent offence committed after the expiry of a period of three years from the date on which the offence was previously compounded, shall be deemed to be a first offence.

(5) Where an offence has been compounded under sub-section (1), no proceeding or further proceeding, as the case may be, shall be taken against the offender in respect of the offence so compounded.

(6) No offence under this Act shall be compounded except as provided by this section.

49. (1) Where an offence under this Act has been committed by a company,—

(a) (i) the person, if any, who has been nominated under sub-section (2) to be in charge of, and responsible to, the company for the conduct of the business of the company (hereinafter in this section referred to as a person responsible); or

(ii) where no person has been nominated, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company; and

(b) the company,

shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of such offence.

(2) Any company may, by order in writing, authorise any of its directors to exercise all such powers and take all such steps as may be necessary or expedient to prevent the commission by the company of any offence under this Act and may give notice to the Director or the concerned Controller or any legal metrology officer authorised in this behalf

by such Controller (hereinafter in this section referred to as the authorised officer) in such form and in such manner as may be prescribed, that it has nominated such director as the person responsible, along with the written consent of such director for being so nominated.

Explanation.—Where a company has different establishments or branches or different units in any establishment or branch, different persons may be nominated under this sub-section in relation to different establishments or branches or units and the person nominated in relation to any establishment, branch or unit shall be deemed to be the person responsible in respect of such establishment, branch or unit.

(3) The person nominated under sub-section (2) shall, until—

(i) further notice cancelling such nomination is received from the company by the Director or the concerned Controller or the authorised officer; or

(ii) he ceases to be a director of the company; or

(iii) he makes a request in writing to the Director or the concerned Controller or the legal metrology officer under intimation to the company, to cancel the nomination, which request shall be complied with by the Director or the concerned Controller or the legal metrology officer,

whichever is the earliest, continue to be the person responsible:

Provided that where such person ceases to be a director of the company, he shall intimate the fact of such cessation to the Director or the concerned Controller or the authorised officer:

Provided further that where such person makes a request under clause (iii) the Director or the concerned Controller or the authorised officer shall not cancel such nomination with effect from a date earlier than the date on which the request is made.

(4) Notwithstanding anything contained in the foregoing sub-sections, where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to the neglect on the part of, any director, manager, secretary or other officer, not being a person nominated under sub-section (2), such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(5) Where any company is convicted under this Act for contravention of any of the provisions thereof, it shall be competent for the court convicting the company to cause the name and place of business of the company, nature of the contravention, the fact that the company has been so convicted and such other particulars as the court may consider to be appropriate in the circumstances of the case, to be published at the expense of the company in such newspaper or in such other manner as the court may direct.

(6) No publication under sub-section (5) shall be made until the period for preferring an appeal against the orders of the court has expired without any appeal having been preferred, or such an appeal, having been preferred, has been disposed of.

(7) The expenses of any publication under sub-section (5) shall be recoverable from the company as if it were a fine imposed by the court.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm but excludes nominated directors, honorary directors, Government nominated directors.

50. (1) Subject to the provisions of sub-section (2), an appeal shall lie,—

Appeals.

(a) from every decision or order under sections 15 to 20, section 22, section 25, sections 27 to 39, section 41 or any rule made under sub-section (3) of section 52 by the legal metrology officer appointed under section 13, to the Director,

(b) from every decision or order made by the Director of Legal Metrology under sections 15 to 20, section 22, section 25, sections 27 to 39, section 41 or any rule made under sub-section (3) of section 52, to the Central Government or any officer specially authorised in this behalf by that Government;

(c) from every decision given by the Controller of Legal Metrology under delegated powers of Director Legal Metrology to the Central Government;

(d) from every decision given or order made under sections 15 to 18, sections 23 to 25, sections 27 to 37, sections 45 to 47 or any rule made under sub-section (3) of section 52 by any legal metrology officer appointed under section 14, to the Controller; and

(e) from every decision given or order made by the Controller under sections 15 to 18, sections 23 to 25, sections 27 to 37, section 45 to 47 or any rule made under sub-section (3) of section 52 not being an order made in appeal under clause (d), to the State Government or any officer specially authorised in this behalf by that Government.

(2) Every such appeal shall be preferred within sixty days from the date on which the impugned order was made:

Provided that the appellate authority may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the said period of sixty days, permit the appellant to prefer the appeal within a further period of sixty days.

(3) On receipt of any such appeal, the appellate authority shall, after giving the parties to the appeal, a reasonable opportunity of being heard and after making such inquiry as it deems proper, make such order, as it may think fit, confirming, modifying or reversing the decision or order appealed against or may send back the case with such direction as it may think fit for a fresh decision or order after taking additional evidence, if necessary.

(4) Every appeal shall be preferred on payment of such fees, as may be prescribed.

(5) The Central Government or the State Government, as the case may be, may on its own motion or otherwise, call for and examine the record of any proceeding including a proceeding in appeal in which any decision or order has been made, for the purpose of satisfying itself as to the correctness, legality or propriety of such decision or order and may pass such orders thereon as it may think fit:

Provided that no decision or order shall be varied under this sub-section so as to prejudicially affect any person unless such person has been given a reasonable opportunity of showing cause against the proposed action.

51. The provisions of the Indian Penal Code and the Code of Criminal Procedure, 1973 in so far as such provisions relate to offences with regard to weight or measure, shall not apply to any offence which is punishable under this Act. 45 of 1860.
2 of 1974.

Provisions of
Indian Penal
Code and
Code of
Criminal
Procedure
not to apply.
Power to make
Rules.

52. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the specification of the base units of measures and base unit of mass under sub-section (2) of section 5;

(b) the manner of preparation of objects and equipments under sub-section (3) of section 7;

(c) physical characteristics, configuration, constructional details, materials, equipment, performance, tolerances, period of re-verification, methods or procedures of tests under sub-section (4) of section 7;

(d) reference standards, secondary standards and working standards of weights and measures under sub-section (1) of section 9;

(e) reference standards, secondary standards and working standards shall be verified and stamped and the fee under sub-section (2) of section 9;

(f) the weight or measure or number in which any transaction, dealing, or contract in respect of any goods, class of goods or undertakings shall be made under section 10;

(g) the qualifications of the Director and legal metrology officers under sub-section (2) of section 13;

(h) the qualification of the Controller and legal metrology officers under sub-section (2) of section 14;

(i) the manner of disposal of goods under sub-section (3) of section 15;

(j) the time within which the weight or measure may be got verified under proviso to sub-section (1) of section 16;

(k) registers and records to be maintained by persons referred to under sub-section (1) of section 17;

(l) the standard quantities or number and the manner in which the packages shall bear the declarations and the particulars under sub-section (1) of section 18;

(m) the manner and registration and the fee under section 19;

(n) the management and control of the Institute, the teaching staff and other employees, the courses and curricula for training thereat, the qualifications, which a person shall possess in order to be eligible for admission thereto under sub-section (2) of section 21;

(o) the manner, fee and authority for approval of models under section 22;

(p) the form, manner, conditions, period, area of jurisdiction and fee under sub-section (2) of section 23;

(q) fee for verification of weight or measure under sub-section (1) of section 24;

(r) the kinds of weights or measures under sub-section (2) of section 24;

(s) the manner in which, terms and conditions on which and fee on payment which the Central Government or the State Government shall notify the Government approved Test Centre under sub-section (3) of section 24;

(t) the fee and terms and conditions on which Government approved Test Centre shall verify the weight or measure under sub-section (4) of section 24;

(u) the error in net quantity under sub-section (2) of section 36;

(v) fee for compounding of offence under sub-section (1) of section 48;

(w) form and manner in which notice to the Director or the Controller or any other officer authorised by him shall be given under sub-section (2) of section 49.

(3) In making any rule under this section, the Central Government may provide that a breach thereof shall be punishable with fine which may extend to five thousand rupees.

(4) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

53. (1) The Central Government may, in consultation with the State Government and by notification, direct that any power exercisable by it under this Act or any rule made thereunder, not being a power conferred by section 50 relating to appeal or section 19,

Delegation of Powers.

sections 22 to 24 and section 50 relating to power to lay down scale of fee or section 52 relating to power to make rules, in relation to such matters and subject to such conditions as may be specified, may be exercised also by such officer subordinate to it as may be specified in the notification.

(2) Subject to any general or special direction or condition imposed by the State Government, any person authorised by the Central Government to exercise any powers may exercise those powers in the same manner and to the same extent as if they had been conferred on that person directly by this Act and not by way of delegation.

Act not to apply in certain cases.

54. The provisions of this Act, in so far as they relate to verification and stamping of weights and measures, shall not apply to any weight or measure,—

(a) used in any factory exclusively engaged in the manufacture of any arms, ammunition or both, for the use of the Armed Forces of the Union;

(b) used for scientific investigation or for research;

(c) manufactured exclusively for export.

Existing Director, Controller and legal metrology officer not to be affected by the new qualification to be prescribed.

55. (1) Every Director, Controller and legal metrology officer appointed immediately before the commencement of the rules made under this Act, shall be deemed to have been appointed under sub-section (1) of sections 13 and 14, notwithstanding any rule prescribing different qualifications.

(2) The rules made by a State Government under the Standards of Weights and Measures (Enforcement) Act, 1985 which are in force immediately before the commencement of this Act shall remain in force until the Central Government, makes rules in that behalf.

54 of 1985.

Repeal of the Standards of Weights and Measures Act, 1976 and Standards of Weights and Measures (Enforcement) Act, 1985.

56. (1) The Standards of Weights and Measures Act, 1976 and the Standards of Weights and Measures (Enforcement) Act, 1985, is hereby repealed.

60 of 1976.

54 of 1985.

(2) Without prejudice to the provisions contained in the General Clauses Act, 1897, with respect to repeals, any notification, rule or order made under the Standards of Weights and Measures Act, 1976 and the Standards of Weights and Measures (Enforcement) Act, 1985, shall, if in force, at the commencement of this Act, continue to be in force and have effect as if it was made under the corresponding provision of this Act.

10 of 1897.

60 of 1976.

54 of 1985.

(3) Notwithstanding such repeal, any appointment, notification, rule, order, registration, licence, certificate, notice, decision, approval, authorisation or consent made, issued or given under such law shall, if in force at the commencement of this Act, continue to be in force and have effect as if it were made, issued or given under the corresponding provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

In India, uniform standards of weights and measures based on the metric system, were established in the year 1956, which were revised in the year 1976 with a view to give effect to the international system of units. Apart from it, the Standards of Weights and Measures Act, 1976 provides for establishing Standards of Weights and Measures, regulation of inter-State trade or commerce in weights and measures and other goods which are sold by weight, measure or number. In the year 1985, the Standards of Weights and Measures (Enforcement) Act, 1985 was enacted for enforcement of standards of weights and measures established by or under the 1976 Act.

2. The advancement of technology has necessitated the review of above mentioned enactments to make them simple, eliminate obsolete regulations, ensure accountability and bring transparency.

3. It has become imperative to combine the provisions of the existing two Acts to get rid of anomalies and make the provisions simple. It has also become necessary to keep the regulation pragmatic to the extent required for protecting the interest of consumers and at the same time keep the industry free from undue interference. It has also become necessary to recognise certain "Government approved Test Centres" which will be empowered to verify prescribed weight or measure.

4. The Bill, *inter alia*, provides for,—

- (a) regulation of weight or measure used in transaction or for protection;
- (b) approval of model of weight or measure;
- (c) verification of prescribed weight or measure by Government approved Test Centre;
- (d) prescribing qualification of legal metrology officers appointed by the Central Government or State Government;
- (e) exempting regulation of weight or measure or other goods meant for export;
- (f) levy of fee for various services;
- (g) nomination of a Director by a company who will be responsible for complying with the provisions of the enactment;
- (h) penalty for offences and compounding of offences;
- (i) appeal against decision of various authorities; and
- (j) empowering the Central Government to make rules for enforcing the provisions of the enactment.

SHARAD PAWAR.

Notes on clauses

Clause 2 defines certain expressions used in the Bill.

Clause 3 seeks to give overriding effect to the provisions of the Bill.

Clause 4 seeks to mention the system on which units of weights and measures shall be based.

Clause 5 seeks to name the base units of weights and measures and provide for defining them.

Clause 6 seeks to name the base unit of numeration.

Clause 7 defines the standard unit of weight and measure.

Clause 8 specifies the standard weight, measure or numeral.

Clause 9 provides for prescribing reference, secondary and working standard.

Clause 10 provides for use of weight or measure for particular purposes.

Clause 11 prohibits quotation, etc., otherwise than in terms of standard units of weight, measure or numeration.

Clause 12 prohibits any custom, usage, etc., contrary to standard weight, measure or numeration.

Clause 13 provides for appointment of Director, legal metrology officer and other employees.

Clause 14 provides for appointment of Controller, legal metrology officers and other employees.

Clause 15 provides power of inspection, seizure, etc., in respect of Director, Controller and legal metrology officer.

Clause 16 provides for forfeiture of non-standard or unverified weight or measure.

Clause 17 provides for maintenance of records and registers by manufacturers.

Clause 18 provides for prescribing declarations on pre-packaged commodities.

Clause 19 provides for registration for importer of weight or measure.

Clause 20 prohibits in respect of non-standard weights and measures.

Clause 21 provides for training of legal metrology officers.

Clause 22 provides for approval of model.

Clause 23 prohibits manufacture, repair or sale of weight or measure without licence.

Clause 24 provides for verification and stamping of weight or measure.

Clause 25 provides for penalty for use of non-standard weight or measure.

Clause 26 provides for penalty for alteration of weight and measure.

Clause 27 provides for penalty for manufacturer or sale of non-standard weight or measure.

Clause 28 provides for penalty for making any transaction, deal or contract in contravention of the prescribed standards.

Clause 29 provides for penalty for quoting or publishing, etc., non-standard weight or measure.

Clause 30 provides for penalty for transactions in contravention of standard weight or measure.

Clause 31 provides for penalty for non-production of documents, etc.

Clause 32 provides for penalty for failure to get the model approved.

Clause 33 provides for penalty for use of unverified weight or measure.

Clause 34 provides for penalty for sale or delivery of commodities, etc., by non-standard weight or measure.

Clause 35 provides for penalty for rendering services by non-standard weight, measure or number.

Clause 36 provides for penalty for selling, etc., of non-standards packages.

Clause 37 provides for penalty for contravention by Government approved Test Centre.

Clause 38 provides for penalty for non-registration by importer of weight or measure.

Clause 39 provides for penalty for import of non-standard weight or measure.

Clause 40 provides for penalty for obstructing Director, Controller or legal Metrology Officer.

Clause 41 provides for penalty for giving false information or false returns.

Clause 42 provides for vexatious search.

Clause 43 provides for penalty for verification in contravention of the Act and the rules.

Clause 44 provides for penalty for counterfeiting of seals, etc.

Clause 45 provides penalty for manufacture of weight and measure without licence.

Clause 46 provides penalty for repair, sale, etc., of weight and measure without licence.

Clause 47 provides for penalty for tempering with licence.

Clause 48 provides for compounding of offences.

Clause 49 provides for offences by companies and power of court to publish name, place of business, etc., of companies convicted.

Clause 50 provides for appeal against decision of various functionaries.

Clause 51 provides that provisions of Indian Penal Code and the Code of Criminal Procedure will not to apply so far as offences relating to weight or measure is concerned.

Clause 52 provides for power to make Rules by the Central Government for carrying out the provisions of the Act.

Clause 53 provides for delegation of powers of the Central Government.

Clause 54 provides for exemption from verification of a weight or measure in certain cases.

Clause 55 provides for validation of appointment of existing Director, Controller and Legal Metrology Officer appointed under the existing Act so as not to be affected by new qualification being prescribed under the Bill for such posts.

Clause 56 provides for repeal of the Standards of Weights and Measures Act, 1976 and the Standards of Weights and Measures (Enforcement) Act, 1985.

FINANCIAL MEMORANDUM

Clause 13 of the Bill empowers the Central Government to appoint a Director, legal metrology officers and other employees for exercising the powers and discharging the duties conferred or imposed on them by or under the Bill. These functionaries are already in existence since 1976 and no fresh expenditure is involved for implementing the provisions of this clause.

Clause 21 of the Bill provides for establishment of Indian Institute of Legal Metrology for imparting training in Legal Metrology and allied branches of knowledge. The said Institute has already been established at Ranchi in Jharkhand and as such there will be no fresh expenditure on account of its establishment.

The recurring expenditure for employment of scientific and technical personnel needed for regulation of weights and measures to the tune of rupees two crores and fifty lakhs per annum is being incurred through budget provision made in the annual Demands for Grants of the Ministry. The non-recurring expenditure for strengthening the existing institutions is estimated to be rupees twenty crore over the next five years.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 52 of the Bill empowers the Central Government to make rules for carrying out the provisions of the Act. Sub-clause (2) of that clause enumerates the matters with respect to which rules may be made under the proposed legislation. These matters, *inter alia*, relate to; (a) the specification of the base units of measures and base unit of mass; (b) the manner of preparation of objects and equipments; (c) physical characteristics, configuration, constructional details, materials, equipment, performance, tolerances, period of re-verification, methods or procedures of tests; (d) reference standards, secondary standards and working standards of weights; (e) the manner in which reference standards, secondary standards and working standards shall be verified and stamped and the fee therefor; (f) the weight or measure or number in which any transaction, dealing or contract in respect of any goods, class of goods or undertakings shall be made; (g) the qualifications of Director, Controller and legal metrology officers; (h) the manner of disposal of goods; (i) the time within which the weight or measure may be got verified; (j) registers and records to be maintained by persons referred to; (k) the standard quantities or number and the manner in which the packages shall bear the declarations and the particulars; (l) the manner of registration; (m) the management and control of the Institute, the teaching staff and other employees, the courses and curricula for training thereat, the qualifications, which a person shall possess in order to be eligible for admission thereto; (n) the manner, fee and authority for approval of models; (o) the form, manner, conditions, period, area of jurisdiction and fee; (p) fee for verification of weight or measure; (q) the kinds of weights or measures; (r) the manner in which, terms and conditions on which and fee on payment of which, the Central Government or the State Government shall notify the Government approved Test Centre; (s) the fee and terms and conditions on which Government approved Test Centre shall verify the weight or measure; (t) fee for compounding of offences; (u) form and manner in which notice to the Director or the Controller or any other officer authorised by him shall be given.

2. The matters in relation to which such rules may be made are matters of administrative procedure and detail. The delegation of legislative power is, therefore, of a normal character.

II

BILL NO. LII OF 2008

A Bill further to amend the Representation of the People Act, 1950 and the Representation of the People Act, 1951.

BE it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Representation of the People (Second Amendment) Act, 2008. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

CHAPTER II

AMENDMENTS TO THE REPRESENTATION OF THE PEOPLE ACT, 1950

43 of 1950.

2. In section 24 of the Representation of the People Act, 1950,—

(i) in clause (a), for the words “chief electoral officer”, the words “district magistrate or additional district magistrate” shall be substituted;

Amendment of section 24.

(ii) after clause (a), the following clause shall be inserted, namely:—

“(b) to the chief electoral officer, from any order of the district magistrate or the additional district magistrate under clause (a) above.”.

Amendment of
the Second
Schedule.

3. In the Second Schedule to the Representation of the People Act, 1950, against serial number 18 relating to the State of Mizoram, in column 7, for the entry “38”, the entry “39” shall be substituted. 43 of 1950.

CHAPTER III

AMENDMENTS TO THE REPRESENTATION OF THE PEOPLE ACT, 1951

Amendment of
section 8A

4. In the Representation of the People Act, 1951 (hereinafter referred to as the principal Act), in sub-section (1) of section 8A, for the words “as soon as may be after such order takes effect”, the words “as soon as may be within a period of three months from the date such order takes effect” shall be substituted. 43 of 1951.

Amendment of
section 34

5. In section 34 of the principal Act, in sub-section (1),—

(i) in clause (a), for the words “a sum of ten thousand rupees or where the candidate is a member of a Scheduled Caste or Scheduled Tribe, a sum of five thousand rupees”, the words “a sum of twenty-five thousand rupees or where the candidate is a member of a Scheduled Caste or Scheduled Tribe, a sum of twelve thousand five hundred rupees” shall be substituted;

(ii) in clause (b), for the words “a sum of five thousand rupees or where the candidate is a member of a Scheduled Caste or Scheduled Tribe, a sum of two thousand five hundred rupees”, the words “a sum of ten thousand rupees or where the candidate is a member of a Scheduled Caste or Scheduled Tribe, a sum of five thousand rupees” shall be substituted.

Amendment of
section 123.

6. In section 123 of the principal Act, in clause (7),—

(i) for the words “from any person in the service of the Government”, the words “from any person whether or not in the service of the Government” shall be substituted;

(ii) after sub-clause (g), the following sub-clause shall be inserted, namely:—

“(h) class of persons in the service of a local authority, university, government company or institution or concern or undertaking appointed or deputed by the Election Commission in connection with the conduct of elections.”.

Insertion of
new sections
126A and
126B.

7. After section 126 of the Representation of the People Act, 1951, the following sections shall be inserted, namely:— 48 of 1951.

Restriction on
publication and
dissemination
of result of exit
polls, etc.

126A. (1) No person shall conduct any exit poll and publish or publicise by means of the print or electronic media or disseminate in any other manner, whatsoever, the result of any exit poll during such period, as may be notified by the Election Commission in this regard.

(2) For the purposes of sub-section (1), the Election Commission shall, by a general order, notify the date and time having due regard to the following, namely:—

(a) in case of a general election, the period may commence from the beginning of the hours fixed for poll on the first day of poll and continue till half an hour after closing of the poll in all the States and Union territories;

(b) in case of a bye-election or a number of bye elections held together, the period may commence from the beginning of the hours fixed for poll on from the first day of poll and continue till half an hour after closing of the poll:

Provided that in case of a number of bye-elections held together on different days, the period may commence from the beginning of the hours fixed for poll on the first day of poll and continue till half an hour after closing of the last poll.

(3) Any person who contravenes the provisions of this section shall be punishable with imprisonment for a term which may extend to two years or with fine or with both.

Explanation.— For the purposes of this section,—

(a) “exit poll” means an opinion survey respecting how electors have voted at an election or respecting how all the electors have performed with regard to the identification of a political party or candidate in an election;

(b) “electronic media” includes internet, radio and television including Internet Protocol Television, satellite, terrestrial or cable channels, mobile and such other media either owned by the Government or private person or by both;

(c) “print media” includes any newspaper, magazine or periodical, poster, placard, handbill or any other document;

(d) “dissemination” includes publication in any ‘print media’ or broadcast or display on any electronic media.

126B. (1) Where an offence under sub-section (2) of section 126A has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to the company for the conduct of, the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by
companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.— For the purpose of this section,—

(a) “company” means any body corporate, and includes a firm or other association of individual; and

(b) “director” in relation to a firm means a partner in the firm.’

STATEMENT OF OBJECTS AND REASONS

In any Parliamentary form of Government and in a democracy, the process of election has to be free, fair and equitable. During the years, it has been felt that it is necessary to take some need-based measures to remove certain loopholes noticed in the Representation of the People Act, 1950 (43 of 1950) and the Representation of the People Act, 1951 (43 of 1951). In July, 2004, the Election Commission of India had forwarded a set of 22 proposals on electoral reforms to the Government for consideration.

2. While considering the proposals of the Election Commission, it was considered appropriate to examine certain proposals in respect of the electoral reforms. The following five proposals have been examined by the Government which relates to amendments of the aforesaid Acts of 1950 and 1951. The said amendments are as follows:—

(a) the Representation of the People Act, 1950:—

appointment of the appellate authority within the district against the orders of the electoral registration officers (amendment of section 24);

(b) the Representation of the People Act, 1951:—

(i) simplification of procedure for disqualification of a person found guilty of corrupt practices (specifying a time limit in section 8A);

(ii) increase in the security deposit of the candidates nominated for elections (amendment of section 34);

(iii) inclusion in section 123(7) of all officials appointed in connection with the conduct of elections so as to bring them within the ambit of corrupt practices, if they indulge in furtherance of the prospects of the candidates at elections; and

(iv) restricting the publication of results of all exit polls by whatever means till the last poll in an election is held, by insertion of new sections 126A and 126B. This is considered necessary due to the complexities of the election process, which is increasing day-by-day, and as such elections are being held in several phases. In such staggering of election schedules over a large period of time it is felt that the telecast of exit polls after each phase of polling affects the outcome in the subsequent phase of elections. It is believed that such telecast of exit polls affect the turnout of voters' also.

4. The Representation of the People (Second Amendment) Bill, 2008 seeks to achieve the above said objectives.

HANS RAJ BHARDWAJ

III

BILL NO. LIV OF 2008

A Bill further to amend the Post-Graduate Institute of Medical Education and Research, Chandigarh, Act, 1966.

BE it enacted by Parliament in the Fifty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Post-Graduate Institute of Medical Education and Research, Chandigarh (Amendment) Act, 2008.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

51 of 1966. 2. In the Post-Graduate Institute of Medical Education and Research, Chandigarh, Act, 1966 (hereinafter referred to as the principal Act), for section 23, the following section shall be substituted, namely:—

Substitution of new section for section 23.

“23. Notwithstanding anything contained in any other law for the time being in force, the Institute shall have power to grant medical, dental or nursing degrees, diplomas and other academic distinctions and titles under this Act.”

Grant of medical, dental or nursing degrees, diplomas, etc., by the Institute.

3. For section 24 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 24.

102 of 1956.
16 of 1948.
48 of 1947

“24. Notwithstanding anything contained in the Indian Medical Council Act, 1956, the Dentists Act, 1948 and the Indian Nursing Council Act, 1947, the medical dental or nursing degrees or diplomas, as the case may be, granted by the Institute under this Act shall be recognised—

Recognition of medical, dental and nursing qualifications granted by the Institute.

(a) medical qualifications for the purpose of the Indian Medical Council Act, 1956 and shall be deemed to be included in the First Schedule to that Act;

(b) dental qualifications for the purpose of the Dentists Act, 1948 and shall be deemed to be included in the Schedule to that Act; and

(c) nursing qualifications for the purpose of the Indian Nursing Council Act, 1947 and shall be deemed to be included in the Schedule to that Act.”

STATEMENT OF OBJECTS AND REASONS

The Post-Graduate Institute of Medical Education and Research, Chandigarh was established as an autonomous body by an Act of Parliament (Act 51 of 1966). The Institute has been awarding medical degrees and diplomas which are recognised medical qualifications. Section 13 of the said Act provides that the Post-Graduate Institute of Medical Education and Research, Chandigarh may establish and maintain dental college as well as a nursing college. However, Sections 23 and 24 of the Act presently recognise only the medical degrees and diplomas granted by the Institute as medical qualifications for the purposes of the Indian Medical Council Act, 1956 and the dental and nursing degrees and diplomas are not so recognised. Therefore, there is a need to amend the Post-Graduate Institute of Medical Education and Research, Chandigarh, Act, 1966 so that the dental and nursing qualifications are also recognised for the purposes of the Dentists Act, 1948 and the Indian Nursing Council Act, 1947, respectively.

2. The Bill seeks to achieve the above objects.

ANBUMANI RAMADOSS.

V.K. AGNIHOTRI,
Secretary-General.